

**DECLUES, BURKETT & THOMPSON, LLP**

EXEMPT FROM FEES PER: GOVERNMENT CODE SECTION 6103

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Attorneys for Defendants, **CITY OF IMPERIAL** (a public entity) and  
**MIGUEL COLON** (employee of a public entity)

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

JOHN ESPINOZA, an individual,

*Plaintiff,*

vs.

CITY OF IMPERIAL, a public entity;  
MIGUEL COLON, an individual; IRA  
GROSSMAN, an individual; and DOES  
1 THROUGH 50, inclusive,

*Defendants.*

CASE NO.: 07CV2218 LAB (RBB)

*Complaint Filed: 11/20/07*

*Judge Larry A. Burns  
Courtroom 9*

**DEFENDANT CITY OF IMPERIAL  
AND MIGUEL COLON'S NOTICE OF  
ANTI-SLAPP MOTION**

**ORAL ARGUMENT REQUESTED**

**Date: July 14, 2008**

**Time: 11:15 a.m.**

**Courtroom: 9**

**TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that on July 14, 2008, at 11:15 a.m., before the Honorable Larry A. Burns, Courtroom 9, United States District Courthouse, 940 Front Street, San Diego, California, defendants CITY OF IMPERIAL (a public entity) and MIGUEL COLON (employee of a public entity), will and hereby do move to strike the First Amended Complaint filed by plaintiff JOHN ESPINOZA pursuant to the California Anti-SLAPP Statute.

This Motion is based upon Section 425.16 of the California *Code of Civil Procedure*, as is brought on the grounds that: 1) Defendants CITY and COLON's free

1 speech rights are implicated by plaintiff's First Amended Complaint and 2) Plaintiff  
2 cannot establish that there is a reasonable probability that he will prevail on his claims  
3 against the CITY and/or COLON.

4 Specifically, defendants CITY and COLON seek to strike the following causes of  
5 action: 1) Third cause of action for disability/medical condition discrimination under  
6 FEHA; 2) Fourth cause of action for failure to accommodate under FEHA; 3) Fifth cause  
7 of action for harassment under ADA and FEHA; 4) Sixth cause of action for retaliation  
8 under ADA and FEHA; 5) Ninth cause of action for invasion of privacy; 6) Tenth cause  
9 of action for wrongful termination in violation of public policy; 7) Eleventh cause of  
10 action for defamation; 8) Twelfth cause of action for blacklisting; and 9) Thirteenth cause  
11 of action for intentional infliction of emotional distress.

12 This Motion is based upon the Memorandum of Points and Authorities filed  
13 concurrently herewith, the pleadings and records on file herein, and on any additional  
14 evidence argument or authorities that may be presented at the hearing on this Motion.

15  
16 Dated: May 16, 2008

**DECLUES, BURKETT & THOMPSON, LLP**

17  
18 BY: s/J. Thompson

JEFFREY P. THOMPSON, Esq.

JENNIFER K. BERNEKING, Esq.

Attorneys for Defendants, **CITY OF IMPERIAL,**  
19 (a public entity) and **MIGUEL COLON**  
20 (employee of a public entity)  
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**PROOF OF SERVICE**  
**(C.C.P. section 1013a(3))**

STATE OF CALIFORNIA }  
COUNTY OF ORANGE } SS.

I am over the age of 18 and I am not a party to the within action. I am employed by **DECLUES, BURKETT & THOMPSON, LLP**, in the County of Orange, at 17011 Beach Blvd., Ste. 400, Huntington Beach, California, 92647-5995.

On **May 16, 2008**, I served the attached: **DEFENDANT CITY OF IMPERIAL AND MIGUEL COLON'S NOTICE OF ANTI-SLAPP MOTION**

On the interested parties in this action by:

XXX Placing true copies thereof in sealed envelopes, addressed as described below.

Vincent J. Tien  
Law Offices of Vincent J. Tien  
17291 Irvine Blvd., Suite 150  
Tustin, CA 92780

White, Oliver & Amundson  
550 West C Street, Suite 950  
San Diego, CA 92101  
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XXX BY MAIL: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the United States Postal Service on that same day, with postage thereon fully prepaid at Huntington Beach, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

BY PERSONAL SERVICE: I caused such an envelope to be delivered by hand to the offices of the addressees.

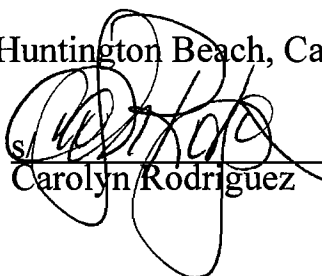
BY FEDERAL EXPRESS (Receipt/Airbill No.: \_\_\_\_\_)

BY FACSIMILE TRANSMISSION: From FAX NO. (714) 843-9452 to FAX No.: \_\_\_\_\_ at or about Time, directed to Name. The facsimile machine I used complied with Rule 2003(3), and no error was reported by the machine. Pursuant to Rule 2005(I), I caused the machine to print a record of the transmission, a copy of which is attached to this declaration.

XXX FEDERAL: I declare I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

I declare, under penalty of perjury under the laws of the State of California, that the above is true and correct.

Executed on **May 16, 2008**, at Huntington Beach, California.

  
\_\_\_\_\_  
Carolyn Rodriguez